

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

JANE DOE, A Minor Child,)
by and through her next friends,)
KEN GASKELL and ALLISON LEITCH,)
)
Plaintiffs,)

v.)

No. _____

HAMILTON COUNTY BOARD OF)
EDUCATION d/b/a HAMILTON COUNTY)
SCHOOLS; JAMES BOLES; and)
CARMEN VELLER,)
)
Defendants.)

JURY DEMANDED

COMPLAINT

Now advance Plaintiffs, through their undersigned counsel, and allege as follows:

INTRODUCTION

This is a case about how a public school and its administrators failed to protect a young female student from sexual assault, harassment and bullying.

I. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because this litigation involves matters of federal law, specifically claims made under the Education Amendments of 1972 (Title IX), 20 U.S.C § 1681,

et seq., and the Fourteenth Amendment to the United States Constitution under 42 U.S.C. § 1983.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as all relevant facts giving rise to this case and damages sustained by the Plaintiff Jane Doe occurred in Hamilton County, Tennessee, which is part of the United States District Court for the Eastern District of Tennessee.

II. PARTIES

3. Plaintiffs KEN GASKELL and ALLISON LEITCH, both individuals of the full age of majority and who are domiciled in Hamilton County, Tennessee, are the parents and legal guardians of Jane Doe. Ken Gaskell and Allison Leitch assert this action by and through themselves and as next friends to Jane Doe.

4. Plaintiff JANE DOE is a minor child and the primary plaintiff of this Complaint. Jane is, and at all material times hereto, a resident of Hamilton County, Tennessee where she resides with her parents, Ken Gaskell and Allison Leitch. At all materials times during this Complaint, Jane was a student at Chattanooga School for the Arts and Sciences K-12 (“CSAS”).

5. Defendant HAMILTON COUNTY BOARD OF EDUCATION (“HCBE”) d/b/a HAMILTON COUNTY SCHOOLS (“HCS”) is a public school board organized under the laws of the State of Tennessee. The Hamilton County Board of Education is charged under the laws of Tennessee with the duty of

managing, controlling and operating all public schools that comprise Hamilton County school system.

6. Defendant JAMES BOLES is a resident of Hamilton County, Tennessee, and during all relevant times was employed by the Hamilton County Board of Education and working at CSAS. Mr. Boles is being sued in his individual capacity acting under color of law.

7. Defendant CARMEN VELLER is a resident of Hamilton County, Tennessee, and during all relevant times was employed by the Hamilton County Board of Education and working at CSAS. Ms. Veller is being sued in her individual capacity acting under color of law.

III. FACTS

8. Defendant HCBE d/b/a HCS is a government entity organized to operate, manage, and control public schools within Hamilton County, Tennessee.

9. Defendant HCBE is a recipient of federal funds within the meaning of 20 U.S.C. § 1681(a).

10. Chattanooga School for the Arts and Sciences (“CSAS”), K-12 is a public school within the Hamilton County school system.

11. CSAS promotes itself as “the only magnet school within Hamilton County offering a K-12 education.”¹

12. CSAS promotes itself as:

- “...a 99 percent attendance rate.”
- “More CSAS students go to college and stay in college – than any other school in Hamilton County – public or private.”
- “CSAS is one of only two K-12 schools in the county to be founded as a Paideia School and maintain its principles throughout its history.”
- “... has one of the highest graduation rates in the state of Tennessee.”¹

13. During all material times, James Boles served as the Principal as CSAS.

14. During all material times, Carmen Veller served as Assistant Principal over CSAS middle school.

15. Jane Doe, the daughter of Ken Gaskell and Allison Leitch, was a gifted student who regularly earned excellent grades.

16. Ken Gaskell and Allison Leitch were attracted to CSAS because of its academic reputation and opportunities.

¹ www.csasupper.hcde.org/about_the_school

17. In the Spring/Summer 2021, Jane Doe was accepted to enroll into CSAS for the 2021-2022 school year.

18. In August 2021, Jane Doe entered CSAS as a seventh grade student.

19. During all material times, Kalani Cannon was a teacher at CSAS.

20. In the Fall of 2021, Jane Doe was a student in Kalani Cannon's science class.

21. During all material times, the entire seventh grade class at CSAS jointly shared the same lunch period in the CSAS cafeteria.

22. During all material times, the entire seventh grade class at CSAS participated in what was called a "movement period" in which students in the seventh grade would collectively walk around the campus of CSAS.

23. During all material times, Jim Doe,² was thirteen (13) years old and a student in the seventh grade at CSAS.

November/December 2021 Harassment

24. In the Fall of 2021, Jim Doe was in the same science class as Jane Doe that was taught by Kalani Cannon.

25. Beginning in late November and extending into December 2021, Jim Doe began confronting and accosting Jane Doe with sexual threats and taunts which include, but not limited to, the following:

² Pseudonym, not real name

- “Suck my dick bitch.”
- “Suck my balls.”
- “Give me head.”
- “Are you a virgin?”
- “You aren’t a virgin are you!”
- “Wanna have sex?”
- “Tryna suck my dick.”
- “Wanna see my dick?”
- “I wanna see you naked.”
- “Can I see your tits?”
- “If I show you my dick then could I see you naked?”

26. Jim Doe’s taunts and threats were unwelcomed by Jane Doe and made her uncomfortable.

27. Jane Doe complained about Jim Doe’s taunts and threats to Kalani Cannon.

28. Ms. Cannon passed on Jane Doe’s complaints to Ms. Carmen Veller.

29. Carmen Veller, as Middle School Principal at CSAS, had the authority and responsibility to take disciplinary action against Jim Doe to prevent his continuing taunting of Jane Doe.

30. In December 2021 during one of Ms. Cannon’s science classes, as Jane Doe leaned over a table to look at a science project, Jim Doe came behind her and put his hands on her hips and began to grind his genital area onto Jane Doe’s rear end before leaving the class room and going to the boys bathroom at CSAS.

31. The action described in the previous paragraph was during a science class in view of several students in the class.

December 9, 2021 Incident

32. On December 9, 2021, CSAS had a band concert on campus after school hours.

33. The band concert was a voluntary activity to which all students as CSAS were invited.

34. The band concert was held in the CSAS auditorium and there were many staff members, faculty members, and students of CSAS in attendance.

35. Jane Doe attended the band concert on December 9, 2021, as did Jim Doe.

36. Jim Doe sat next to or near Jane Doe in the auditorium and asked if she wanted to have sex.

37. Jane doe considered Jim Doe's question a joke and rejected it.

38. Jim Doe invited Jane Doe to walk throughout the school that remained open both during and after the band concert.

39. Jim Doe and Jane Doe began walking throughout the hallways of CSAS, the cafeteria and ended up going to the boiler room at CSAS.

40. The door to the CSAS boiler room was unlocked.

41. Once in the boiler room, Jim Doe verbally accosted Jane Doe and physically forced her to perform oral sex on Jim Doe.

42. In the weeks after the December 9, 2021 incident, Jim Doe and other students accosted and threatened Jane Doe with sexual taunts that included, but are not limited to, the following:

- “I know it tasted salty right?”
- “You’re such a little bitch.”
- “Stop being a pussy you didn’t even go through with it.”
- “I’m sorry I shouldn’t of done that.”
- “I’ll pay you \$20 since you sort of suck it.”
- “You wanted it.”
- “Can you help me with something?”
- “Suck my dick.”
- “You whore, you didn’t even let me finish all the way.”
- “Dumb slut.”
- “You’re such a hoe.”
- “Why didn’t you go through with it?”
- “Now can I see you naked?”
- “You asked for it.”

43. In response to being bullied, harassed and threatened by Jim Doe and others, Jane Doe hid in the bathroom, cried, and began missing classes.

Actual Notice of December 9, 2021 Incident

44. On or about January 12, 2022, Jane Doe approached Kalani Cannon and attempted to report to her what had occurred in the boiler room with Jim Doe on December 9.

45. Jane Doe, overcome with emotion, was unable to verbally explain what happened.

46. Ms. Cannon asked Jane Doe to write down what she was attempting to describe.

47. Jane Doe then wrote the following which was given to Ms. Cannon:

“He pulled out his THING and asked me to give him head and before he did he told me to get on my knees and I did and when he asked me I kept saying no and he tried pushing on the back of my head so I got up and he kept telling me to turn around and said ‘it’ll be quick’ and then I said no and tried walking away as he grabbed my arm and he kept pulling me so I finally got his arm off and he said ‘Whatever, I have to go anyways’ then stormed off.”

48. That same day on January 12, Ms. Cannon brought Jane Doe’s note about what happened on December 9 to Ms. Veller.

49. Ms. Veller took no immediate action.

50. Later, Ms. Veller reviewed the school surveillance film of December 9, which confirmed that Jim Doe and Jane Doe were walking through the hallways and the cafeteria and walking towards the boiler room on the night of the band concert event.

51. Ms. Veller called and filed a report with the Tennessee Department of Childrens Services (No. 1382091076).

52. Ms. Veller shared the note written by Jane Doe with Principal James Boles, who reported the incident to School Resource Officer (“SRO”) Deputy Josh Shirley stationed at CSAS.

53. Deputy Shirley met with Mr. Boles and Ms. Veller and contacted Hamilton County law enforcement about a potential crime.

54. Neither Mr. Boles nor Ms. Veller called or contacted Ken Gaskell or Allison Leitch about the event.

55. On January 14, 2022, Detective Jason Maucere and Detective Danny Stone of the Hamilton County Sheriff’s Office traveled to CSAS to meet with SRO Deputy Shirley, Mr. Boles and Ms. Veller.

56. On the way to the school, Deputy Stone contacted Allison Leitch about the incident, who also reported to the school.

57. Deputies Maucere and Stone met with SRO Shirley, Ms. Veller and Kalani Cannon about the events described by Jane Doe on December 9, 2021.

58. Ms. Cannon described the sexual threats from Jim Doe that Jane Doe had complained about in December.

59. Ms. Veller gave the deputies the note written by Jane Doe and given to Ms. Cannon.

60. At some point that same day, Allison Leitch met with both Mr. Boles and Ms. Veller about what was going to be happening during the police investigation.

61. Mr. Boles and Ms. Veller indicated that Jim Doe would be removed from any of Jane Doe's classes and they would arrange for some type of escort to be with Jane Doe any time she was walking about in school.

62. On or about January 18, 2022, Ken Gaskell met with Mr. Boles and Ms. Veller at CSAS.

63. Ms. Veller admitted that when she first learned of the incident through Ms. Cannon, she thought Jane Doe was lying and only after reviewing the surveillance tapes did she believe what Jane Doe had reported was possibly true.

64. Mr. Gaskell repeatedly asked why he was not called about the incident as he is the principal contact parent listed with CSAS.

65. Neither Mr. Boles, nor Ms. Veller could give Ms. Gaskell an answer.

Harassment After January 14, 2022

66. On January 19, 2022, Jane Doe was called into and met with Mr. Boles and Ms. Veller at which time both suggested that as a woman Jane Doe should consider the impact her complaint was having on Jim Doe.

67. Upon information and belief, after January 14, 2022, Jim Doe was removed from Jane Doe's science class.

68. There was still contact between Jane Doe and Jim Doe during the mandatory lunch period in the CSAS cafeteria and during the mandatory daily movement period.

69. During this time, Jim Doe would stare and glare at Jane Doe.

70. When passing Jane Doe while in CSAS, Jim Doe would announce, “here’s the liar of the school.”

71. Jim Doe would text Jane Doe using someone else’s phone in which he would berate and threaten her.

72. Once Jim Doe left a written note in Jane Doe’s desk.

73. After January 14, 2022, the December 9, 2021 event reported by Jane Doe became known to many other students at CSAS.

74. After January 14, 2022, male and female students at CSAS during school hours and on campus repeatedly and verbally harassed Jane Doe about the December 9, 2021 event.

75. Male and female students frequently called Jane Doe a liar, a slut, whore, accused her of sleeping around with other people, and rumors were spread that Jane Doe was pregnant.

76. Jane Doe received threatening text messages from other CSAS students.

77. Some students when getting Jane Doe's attention would demonstrate an oral sex hand expression.

78. Other students would leave drawings for Jane Doe that demonstrated oral sex.

79. Once when Jane Doe was walking down a stairway at CSAS, a student pushed her from behind causing her to fall down the stairs and she sustained injuries.

80. Some students would shove, push or trip Jane Doe as she walked by.

81. Jane Doe would describe what was going on at school to her parents, who relayed these problems to both Mr. Boles and Ms. Veller.

82. Allison Leitch would take Jane Doe to school and would complain to Mr. Boles about what was happening with Jane Doe and asked what the school could do to protect her.

83. On March 3, 2022, Ken Gaskell e-mailed Mr. Boles and reported how physically and emotionally uncomfortable Jane Doe was attending school at CSAS.

84. On March 9, 2022, Ken Gaskell e-mailed Mr. Boles complaining of the ongoing harassment his daughter received from other seventh grade students.

85. Mr. Boles responded that he would initiate a bully/harassment report and investigate.

86. The verbal harassment that Jane Doe was receiving from other students at CSAS became so intense that her parents began checking her out of school during

lunch time so that she would not have to appear with other grade students at the mandatory lunch period in the cafeteria.

87. Mr. Boles and Ms. Veller were aware of the harassment Jane Doe experienced and did nothing to alleviate or stop the harassment and took no action to protect Jane Doe.

88. Jim Doe was arrested for rape and attempted kidnapping and removed from CSAS on March 22, 2022.

89. The harassment of Jane Doe from other CSAS students continued unabated.

90. On March 23, 2022, James Boles e-mailed Ken Gaskell to inform him that the bully/harassment investigation was closed “there was not enough verifiable proof.”

91. On evening of March 27, 2022, Jane Doe began having a psychological breakdown as a result of the unrelenting bullying and sexual harassment that she had been receiving from other students at CSAS.

92. Jane Doe began self-mutilation.

93. The following school day, March 28, 2022, during the school hours at CSAS, Jane Doe went into the bathroom and began self-mutilation and swallowed several aspirin.

94. Thereafter, Jane Doe approached SRO Shirley and reported what she had done to herself as a result of the unrelenting harassment.

95. SRO Shirley contacted Jane Doe's parents and took Jane Doe to T.C. Thompson Children's Hospital for evaluation.

96. From there Jane Doe was later transferred to Erlanger Hospital where she remained for several days, and later transferred to Erlanger Behavioral Hospital.

97. Jane Doe was able to complete the school semester from home, and her grades had diminished significantly from previous years.

98. For the school semester of 2022-2023, the Hamilton County Board of Education offered Jane Doe and her parents to allow Jane Doe a safety transfer to another school.

99. Jane Doe enrolled in Chattanooga School for the Liberal Arts ("CSLA") for the Fall 2022 semester.

100. While a student at CSLA, other students were aware of the December 9, 2021 incident and began to bully, harass and threaten Jane Doe.

101. Jane Doe complained of the bullying to a middle school counselor at CSLA who responded that "boys will be boys."

102. Soon after, Jane Doe dropped out of CSLA.

103. Currently, Jane Doe is being homeschooled.

IV. CAUSES OF ACTION

COUNT 1

Violation of the Educational Amendments of 1972 (Title IX) and 20 U.S.C. § 1981, *et seq.* (School Defendant)

104. Plaintiffs incorporate all preceding paragraphs into Count 1 by reference as though fully restated herein.

105. Mr. Boles and Ms. Veller, as CSAS administrators, had actual notice of Jim Doe's severe, pervasive and objectionably unreasonable sexual harassment of Jane Doe that included, but not limited to, the following:

- A. The report from Ms. Cannon in early December of Jim Doe's aggressive and threatening sexual taunting of Jane Doe; and
- B. Jane Doe's January 12, 2022 note to Ms. Cannon describing the December 9, 2021 incident by Jim Doe that Ms. Cannon brought to Ms. Veller and Ms. Veller reported the incident to Mr. Boles on that same day.

106. Mr. Boles and Ms. Veller and other members of CSAS either knew or should have known that because of Jim Doe's inappropriate behavior, he posed a substantial risk of abuse to Jane Doe.

107. HCBE had actual notice, through Mr. Boles, Ms. Veller and SRO Shirley, of the sexual harassment suffered by Jane Doe as a student at CSAS.

108. HCBE, through its agents Mr. Boles and Ms. Veller, through the complaints of Ken Gaskell and Allison Leitch, had actual notice of the sexual and student-on-student harassment Jane Doe suffered from other students.

109. The sexual and student-on-student harassment Jane Doe suffered was severe, pervasive and objectionably unreasonable.

110. By their actions and inactions, Defendants created a climate in which sexual and student-on-student harassment was tolerated and thus continued and repeated causing injury to Jane Doe.

111. The sexual, gender-based and student-on-student harassment suffered by Jane Doe was discrimination based on sex and prohibited by Title IX.

112. By its actions and inactions, Defendant HCBE acted with deliberate indifference to the right of Jane Doe to a safe and secure education environment, and intentionally impaired Jane Doe's ability to pursue her education at CSAS in violation of the requirements of Title IX.

113. HCBE, through its agents Mr. Boles and Ms. Veller, acted with deliberate indifference to the substantial risk of abuse and harm Jane Doe suffered in the following ways:

- A. Created and allowed an environment at CSAS through actions and inactions whereby sexual abuse, discrimination and harassment were allowed to occur.

- B. HCBE violated its policies and procedures by failing to suspend Jim Doe during the police investigation, or at the very least ensure complete physical separation from Jane Doe;
- C. Insufficient efforts were put into effect to ensure there was no physical or verbal contact or communications between Jim Doe and Jane Doe;
- D. After the January 12, 2022 report of the December 9, 2021 incident, neither Mr. Boles nor Ms. Veller took any action to prevent, control, or discipline the ongoing sexual bullying, taunting and harassment Jane Doe received from other students;
- E. No action was taken in order to protect Jane Doe from any risk of abuse from other students once the December 9, 2021 incident became known;
- F. HCBE either did not have a compliant Title IX policy and procedure, or the CSAS administration were unaware of the Title IX policy and procedure, or the CSAS administration violated or failed to comply with the Title IX policy and procedure regarding the harassment suffered by Jane Doe; alternatively, HCBE administrators and employees at CSAS were not adequately trained in Title IX policy and procedures.

- G. HCBE and employees Mr. Boles and Ms. Veller had the authority and ability to take corrective action to end or prevent the sexual abuse and harassment and failed to do so;
- H. The deliberate indifference demonstrated by HCBE, Mr. Boles and Ms. Veller to the actions of Jim Doe allowed the taunts and harassment to evolve from a controlling and manipulative relationship culminating into sexual and student-on-student harassment by other students to Jane Doe; and
- I. Additional actions that will be disclosed upon identification in discovery.

114. The sexual threats, taunts, and sexual abuse suffered by Jane Doe from Jim Doe and other CSAS students was severe, pervasive and objectively unreasonable and effectively barred Jane's access to educational opportunity and benefit of CSAS.

115. Jane Doe suffered repeated sexual threats, taunts and harassment which is considered discrimination prohibited by Title IX.

116. As a direct and proximate cause of the Defendants' actions, omissions and deliberate indifference, Jane Doe sustained and continues to sustain injuries and damages for which she is entitled to be compensated.

COUNT 2
Violation of Plaintiff's Constitutional Rights, brought under 42 U.S.C. § 1983
(Defendants Boles and Veller)

117. Plaintiffs incorporate all preceding paragraphs into Count 2 by reference as though fully restated herein.

118. Twelve-year-old Jane Doe had a constitutional right under the Fourteenth Amendment to bodily integrity that includes the right to be free from sexual abuse by a classmate.

119. Under Tennessee law, minors are required to attend school.

120. As a student of CSAS, HCBE owed a duty to protect Jane Doe from the risk of sustaining any harm.

121. During all material times herein, Mr. Boles and Ms. Veller were employed with the Hamilton County Board of Education and assigned to CSAS where Jane Doe was a student. Mr. Boles and Ms. Veller were acting within the course and scope of their employment.

122. While in the course and scope of their employment with the Hamilton County Board of Education, and acting under color of law, Mr. Boles and Ms. Veller violated Jane Doe's constitutional right of bodily integrity, including the right to be free from sexual abuse, a liberty interest protected under the Due Process Clause of the Fourteenth Amendment and 42 U.S.C. § 1983.

123. As a result of the actions and non-actions of Mr. Boles and Ms. Veller, Jane Doe suffered harm and sustained damages.

124. As a direct and proximate cause of the Defendants' actions, omissions and deliberate indifference, Jane Doe sustained and continues to sustain injuries and damages for which she is entitled to be compensated.

COUNT 3
Damages

125. Plaintiffs incorporate all preceding paragraphs into this Count by reference as through fully restated herein.

126. The actions of all of the Defendants regarding Jane Doe, as previously stated, proximately caused her to suffer severe and significant harm.

127. The harm suffered by Jane Doe includes, but is not limited to the following:

- A. Sexual harassment;
- B. Sexual assault and abuse;
- C. Loss of personal privacy; and
- D. Post-Traumatic Stress Syndrome, mental distress, anguish, depression and other related psychological disorders;
- E. Physical injury as a consequence of the above; and
- F. Loss of educational opportunities.

128. As a result of the harm suffered by Jane Doe, she has suffered damages which include, but are not limited to the following:

- A. Past and future hospital, doctor, prescription drug, medical and psychological treatment, counseling and other related medical expenses;
- B. Past and future mental distress and emotional anguish, public humiliation and embarrassment;
- C. Loss of enjoyment of life; and
- D. Disfigurement.

129. Plaintiffs seek compensation for damages in a reasonable amount to be set by a jury.

130. Plaintiffs seek reasonable attorney fees.

COUNT 4
Punitive Damages Against Defendants

131. Plaintiffs incorporate all preceding paragraphs into Count 4 by reference as though fully restated herein.

132. The actions of the Defendants were malicious, intentional and reckless.

133. Plaintiffs seek an award of punitive damages in a reasonable amount to be set by the jury and supported by the evidence.

134. Plaintiffs ask for trial by jury.

WHEREFORE, Plaintiffs pray that after all due proceedings are had that there be judgment rendered in favor of Plaintiffs Jane Doe and her parents, Ken Gaskell and Allison Leitch, and against the Hamilton County Board of Education, James Boles and Carmen Veller, awarding just and reasonable compensation, attorneys fees, punitive damages, and all other equitable relief.

Respectfully submitted,

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